

May 26, 2016

Chairman Tom Wheeler  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Wheeler:

We write with concerns about the FCC's recently proposed rules on video navigation devices, which we believe could harm rural consumers and small pay-TV providers. Small pay-TV providers are often the communications backbone of small rural communities and are frequently the only providers willing to serve these hard-to-reach areas. While we appreciate your commitment to protecting consumers, we urge you to delay the video navigation device proceedings until the FCC sufficiently studies the specific costs and impacts of the proposal on rural consumers and small providers.

Small providers will not be able to afford the costs that could be associated with building a new architecture to comply with the proposed rule. Even if the Commission considers relief for small operators, the risks that the FCC's proposal poses to them and to consumers do not go away with an exemption. When equipment suppliers, programmers, and other vendors are compelled to meet a new standard, it often leaves small operators with no alternative choice but to comply. Moreover, they are often left with the highest costs and the least support.

Consumers across America are experiencing unprecedented access to high-quality television programming which can be accessed on an increasing assortment of devices. As the video market continues to advance and innovate, it is critical that consumers in rural America experience the same opportunities as urban Americans. Putting additional burdens on the smallest providers could significantly reduce options in the most rural areas, which is why additional work needs to be done to study the costs and impacts of the proposed video navigation device rules before moving forward.

Thank you for your attention to this important matter.

Sincerely,



STEVE DAINES  
United States Senator

  
JON TESTER  
United States Senator



SHELLEY MOORE CAPITO  
United States Senator



DAN SULLIVAN  
United States Senator



ROBERT P. CASEY, JR.  
United States Senator



PAT ROBERTS  
United States Senator



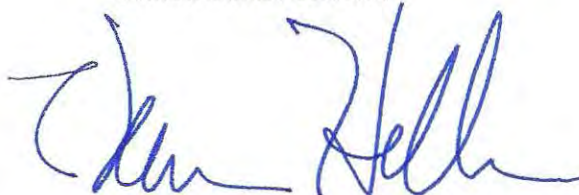
CORY GARDNER  
United States Senator



DEB FISCHER  
United States Senator



JOE DONNELLY  
United States Senator



DEAN HELLER  
United States Senator





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 11, 2016

The Honorable Shelley Moore Capito  
United States Senate  
172 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Capito:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

Section 629 of the Communications Act, adopted by Congress in 1996, requires the Commission to promote competition in the market for devices that consumers use to access their pay-television content. Yet, unfortunately, the statutory mandate in section 629 is not yet fulfilled. The lack of competition in this market has meant few choices and high prices for consumers. In a recent Rasmussen Report Study, 84 percent of consumers felt their cable bill was too high. One of the main contributing factors to these high prices is the no-option, add-on fee for set-top box rental that is included on every bill, forcing consumers to spend, on average, \$231 in rental fees annually. Even worse, a recent congressional investigation found that the price of most equipment fees is determined by what the market will bear, and not the actual cost of the equipment.<sup>1</sup> With the lack of competition in this market, it should come as little surprise that fees for set-top boxes continue to rise.<sup>2</sup> Clearly, consumers deserve better.

This February the Commission put out for public comment a proposal that would fulfill the statutory requirement of competitive choice for consumers. This action opened a fact-finding dialog to build a record upon which to base any final decisions. Our record already contains more than 280,000 filings, the overwhelming majority of which come from individual consumers. FCC staff is actively engaged in constructive conversations with all stakeholders—content creators, minority and independent programmers, public interest and consumer groups, device manufacturers and app developers, software security developers, and pay-TV providers of all sizes—on how to ensure that consumers have the competition and choice they deserve. I am hopeful that these discussions will yield straight-forward, feasible and effective rules for all.

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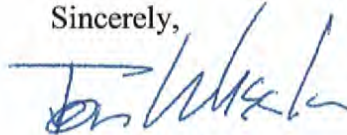
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I share your goal of ensuring that pay-TV subscribers in all parts of our country can enjoy the benefits of consumer choice without unduly burdening small providers of pay-TV. Recognizing the important role that small pay-TV providers play in many rural communities, the Notice of Proposed Rulemaking (NPRM) adopted in February seeks comment how this proceeding could affect these providers. Notably, the NPRM proposes to exempt all analog cable systems from new requirements while also seeking comment on the American Cable Association's proposal to exempt all pay-TV providers serving one million or fewer subscribers from any rules. The NPRM further asks how the Commission can ensure that any rules adopted are not overly burdensome to pay-TV providers. We are continuing to engage with all stakeholders on this issue, including small pay-TV providers. Customers of providers of all sizes deserve choice and innovation, and I am confident that we will be able to find a balance that accurately reflects the technology and resources available to truly small providers.

The record we are developing will help us avoid overburdening small pay-TV providers while delivering all American consumers meaningful choice. Thank you for your engagement in this proceeding, and I look forward to continuing to work with you on this important consumer issue.

Sincerely,

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Tom Wheeler





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 11, 2016

The Honorable Bob Casey  
United States Senate  
393 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Casey:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

Section 629 of the Communications Act, adopted by Congress in 1996, requires the Commission to promote competition in the market for devices that consumers use to access their pay-television content. Yet, unfortunately, the statutory mandate in section 629 is not yet fulfilled. The lack of competition in this market has meant few choices and high prices for consumers. In a recent Rasmussen Report Study, 84 percent of consumers felt their cable bill was too high. One of the main contributing factors to these high prices is the no-option, add-on fee for set-top box rental that is included on every bill, forcing consumers to spend, on average, \$231 in rental fees annually. Even worse, a recent congressional investigation found that the price of most equipment fees is determined by what the market will bear, and not the actual cost of the equipment.<sup>1</sup> With the lack of competition in this market, it should come as little surprise that fees for set-top boxes continue to rise.<sup>2</sup> Clearly, consumers deserve better.

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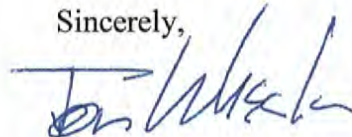
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The record we are developing will help us avoid overburdening small pay-TV providers while delivering all American consumers meaningful choice. Thank you for your engagement in this proceeding, and I look forward to continuing to work with you on this important consumer issue.

Sincerely,

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Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

July 11, 2016

The Honorable Steve Daines  
United States Senate  
320 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Daines:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

Section 629 of the Communications Act, adopted by Congress in 1996, requires the Commission to promote competition in the market for devices that consumers use to access their pay-television content. Yet, unfortunately, the statutory mandate in section 629 is not yet fulfilled. The lack of competition in this market has meant few choices and high prices for consumers. In a recent Rasmussen Report Study, 84 percent of consumers felt their cable bill was too high. One of the main contributing factors to these high prices is the no-option, add-on fee for set-top box rental that is included on every bill, forcing consumers to spend, on average, \$231 in rental fees annually. Even worse, a recent congressional investigation found that the price of most equipment fees is determined by what the market will bear, and not the actual cost of the equipment.<sup>1</sup> With the lack of competition in this market, it should come as little surprise that fees for set-top boxes continue to rise.<sup>2</sup> Clearly, consumers deserve better.

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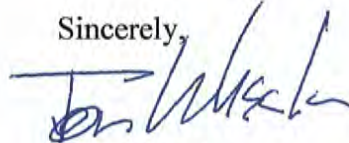
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Tom Wheeler





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 11, 2016

The Honorable Joe Donnelly  
United States Senate  
720 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Donnelly:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

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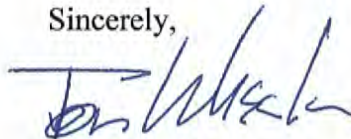
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Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

July 11, 2016

The Honorable Deb Fischer  
United States Senate  
454 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Fischer:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

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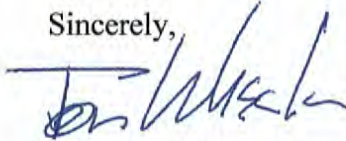
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Sincerely,

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Tom Wheeler





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 11, 2016

The Honorable Cory Gardner  
United States Senate  
354 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Gardner:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

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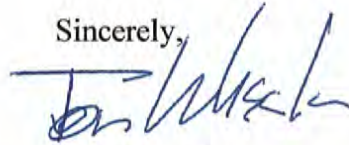
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Tom Wheeler





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 11, 2016

The Honorable Dean Heller  
United States Senate  
324 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Heller:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

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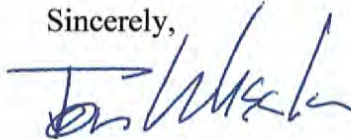
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WASHINGTON

July 11, 2016

The Honorable Pat Roberts  
United States Senate  
109 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Roberts:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact small pay-TV providers. I take your input on this issue seriously and assure you that it will receive careful consideration.

Section 629 of the Communications Act, adopted by Congress in 1996, requires the Commission to promote competition in the market for devices that consumers use to access their pay-television content. Yet, unfortunately, the statutory mandate in section 629 is not yet fulfilled. The lack of competition in this market has meant few choices and high prices for consumers. In a recent Rasmussen Report Study, 84 percent of consumers felt their cable bill was too high. One of the main contributing factors to these high prices is the no-option, add-on fee for set-top box rental that is included on every bill, forcing consumers to spend, on average, \$231 in rental fees annually. Even worse, a recent congressional investigation found that the price of most equipment fees is determined by what the market will bear, and not the actual cost of the equipment.<sup>1</sup> With the lack of competition in this market, it should come as little surprise that fees for set-top boxes continue to rise.<sup>2</sup> Clearly, consumers deserve better.

This February the Commission put out for public comment a proposal that would fulfill the statutory requirement of competitive choice for consumers. This action opened a fact-finding dialog to build a record upon which to base any final decisions. Our record already contains more than 280,000 filings, the overwhelming majority of which come from individual consumers. FCC staff is actively engaged in constructive conversations with all stakeholders—content creators, minority and independent programmers, public interest and consumer groups, device manufacturers and app developers, software security developers, and pay-TV providers of all sizes—on how to ensure that consumers have the competition and choice they deserve. I am hopeful that these discussions will yield straight-forward, feasible and effective rules for all.

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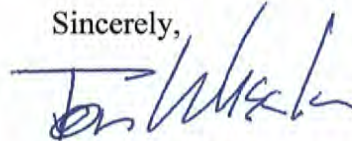
<sup>1</sup> U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS, COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS COMMITTEE, MINORITY STAFF REPORT, INSIDE THE BOX: CUSTOMER SERVICE AND BILLING PRACTICES IN THE CABLE AND SATELLITE INDUSTRY, 17 (Jun. 23, 2016).

<sup>2</sup> One recent analysis found that the cost of cable set-top boxes has risen 185 percent since 1994 while the cost of computers, television and mobile phones has dropped by 90 percent during that same time period.

I share your goal of ensuring that pay-TV subscribers in all parts of our country can enjoy the benefits of consumer choice without unduly burdening small providers of pay-TV. Recognizing the important role that small pay-TV providers play in many rural communities, the Notice of Proposed Rulemaking (NPRM) adopted in February seeks comment how this proceeding could affect these providers. Notably, the NPRM proposes to exempt all analog cable systems from new requirements while also seeking comment on the American Cable Association's proposal to exempt all pay-TV providers serving one million or fewer subscribers from any rules. The NPRM further asks how the Commission can ensure that any rules adopted are not overly burdensome to pay-TV providers. We are continuing to engage with all stakeholders on this issue, including small pay-TV providers. Customers of providers of all sizes deserve choice and innovation, and I am confident that we will be able to find a balance that accurately reflects the technology and resources available to truly small providers.

The record we are developing will help us avoid overburdening small pay-TV providers while delivering all American consumers meaningful choice. Thank you for your engagement in this proceeding, and I look forward to continuing to work with you on this important consumer issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish at the end.

Tom Wheeler





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 11, 2016

The Honorable Dan Sullivan  
United States Senate  
702 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Sullivan:

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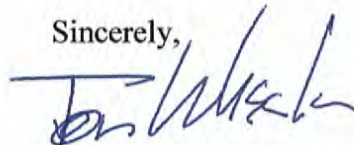
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Tom Wheeler





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 11, 2016

The Honorable Jon Tester  
United States Senate  
311 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Tester:

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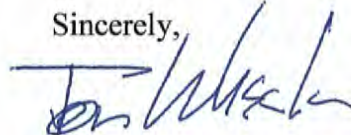
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